

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)
)
KENNETH GREGORY COOK) CHAPTER 13
)
) CASE NO.: 18-53572-PMB
DEBTOR.)

MOTION TO DISMISS

Melissa J. Davey, Trustee in the above styled matter, respectfully shows the Court as follows:

1. Pursuant to Debtor Chapter 13 Plan confirmed on October 24, 2018, Debtor is required to make payments in the amount of \$650.00 to the Trustee.
2. Debtor has failed to make the payments due under the Plan. The total amount due under the Plan is \$23,995.49. Debtor has only paid a total of \$22,695.46, resulting in a delinquency in the amount of \$1,300.00 in violation of 11 U.S.C. §§1307(c)(1) and 1307(c)(6).
3. Debtor's Plan will exceed 60 months in violation of 11 U.S.C. §§1307(c)(1) and 1307(c)(6); see also 11 U.S.C. §1322(d).

Wherefore, Trustee respectfully requests that this case be dismissed pursuant to 11 U.S.C. §1307(c).

Dated: August 31, 2021

Prepared and Presented by:

/s/ Delaycee Rowland

Delaycee Rowland

Attorney for Chapter 13 Trustee

GA Bar No. 773359

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NOTICE OF HEARING ON MOTION TO DISMISS

PLEASE TAKE NOTICE that Melissa J. Davey, Standing Chapter 13 Trustee, has filed a Motion to Dismiss and related papers with the Court.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion to Dismiss in the **U.S. Courthouse, Richard B. Russell Building, 75 Ted Turner Drive S.W., Courtroom 1202, Atlanta, GA 30303-3367 at 9:25 AM on September 30, 2021.** Judge Baisier is assigned to this case.

Your rights may be affected by the Court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the Court to grant the relief sought in these pleadings or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how, and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the **Clerk's Office** is **1340 U.S. Courthouse (and Richard B. Russell Federal Building), 75 Ted Turner Drive S.W., Atlanta, GA 30303-3367.** You may also mail a copy of your response to the undersigned at the address stated below.

This matter will appear on a Court calendar at the date and time indicated on this notice. At the call of the calendar (the “calendar call”) Court staff will ask for announcements for all matters. Parties may attend the calendar call in person or on the telephone (Dial the toll-free number: 888-557-8511 and then enter the access code: 3347422). Matters that need to be heard by the Court may be heard by telephone, by video conference, or in person.

Before the day of your hearing, it is important that you review the “Open Calendar Procedures” tab on Judge Baisier’s web page, which can be found at <https://www.ganb.uscourts.gov/content/honorable-paul-m-baisier> or under the “Information About Bankruptcy Court Hearings” link at the top of the web page for this Court, www.ganb.uscourts.gov. These web pages will provide more information on how the calendar call will be conducted for this matter, when the matter will be heard if a hearing before the Court is necessary, and whether any necessary hearing will be conducted by telephone, by video conference via Judge Baisier’s Virtual Hearing Room, or in person.

Dated: August 31, 2021

Prepared and Presented by:

/s/ Delaycee Rowland

Delaycee Rowland

Attorney for Chapter 13 Trustee

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CERTIFICATE OF SERVICE

This is to certify that I have on this day electronically filed the foregoing Motion to Dismiss together with the Notice of Hearing on the Motion to Dismiss using the Bankruptcy Court's Electronic Case Filing program, which sends a notice of this document and an accompanying link to this document to the following parties who have appeared in this case under the Bankruptcy Court's Electronic Case Filing program:

William Alexander Bozarth cdsummary@13trusteeatlanta.com;cdbackup@13trusteeatlanta.com
Julian T. Cotton Julian.Cotton@padgettlawgroup.com, bkecf@padgettlawgroup.com
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I further certify that on this day I caused a copy of this document to be served via United States First Class Mail with adequate postage prepaid on the following parties set forth below at the address shown for each.

DEBTOR(S):

Kenneth Gregory Cook
5771 Southland Walk
Stone Mountain, GA 30087

Dated: August 31, 2021

Prepared and Presented by:

/s/ Delaycee Rowland

Delaycee Rowland

Attorney for Chapter 13 Trustee

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